

S.B. NO. 2881

JAN 23 2014

A BILL FOR AN ACT

RELATING TO PUBLIC RECORDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 100, Session Laws of Hawaii 2010, is
2 amended by amending section 3 to read as follows:

3 "SECTION 3. This Act shall take effect upon its approval
4 ~~[and shall be repealed on July 1, 2014; provided that section~~
5 ~~92F-11(b), Hawaii Revised Statutes, shall be reenacted in the~~
6 ~~form in which it read on the day before the effective date of~~
7 ~~this Act]."~~

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken.

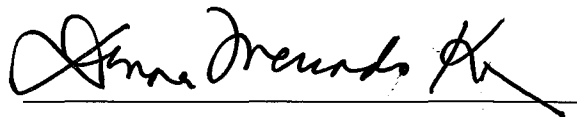
10 SECTION 3. This Act shall take effect on June 30, 2014.

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INTRODUCED BY:



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BY REQUEST

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Report Title:

Public Records; Duplicate Requests from Single Requestor

Description:

Repeals sunset date for provisions exempting an agency from the obligation to respond to duplicate requests from a single requestor, provided that the agency satisfies specified requirements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Office of the Lieutenant Governor, Office of Information Practices.

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC RECORDS.

PURPOSE: To repeal the sunset date for the provision exempting government agencies from the obligation to repeatedly respond to duplicate record requests from a single requester within a year, provided that the agency to which the request was made responded properly the first time.

MEANS: Amend Section 3 of Act 100, Session Laws of Hawaii 2010.

JUSTIFICATION: Prior to July 2010, there was no exception from an agency's obligation to respond to a public record request made under the Uniform Information Practices Act (Modified), chapter 92F, HRS, (UIPA), even if the agency had already responded to the same request one or more times. This was a long-standing source of frustration whenever an agency was faced with a requester who repeatedly made the same request, whether due to inability to understand that the request had been answered already or for some other reason. The problem was made worse due to a high volume of duplicative requests made to one agency in particular, the Department of Health, relating to President Barack Obama's birth certificate. The UIPA was amended effective July 1, 2010, to provide that when an agency has already responded properly to the same or a substantially similar record request by the same person within the last year, and the agency's response would remain unchanged, the agency was not required to respond again to that duplicative response. The new provision left unchanged a requester's right to make any number of new non-duplicative record requests to the same agency.

The provision was given a four-year trial period before its sunset date to allow assessment of

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how it worked in practice. During the three and a half years the provision has been in force, the state Office of Information Practices (OIP) is not aware of any significant negative effect it has had on record requesters' ability to access government records, nor has OIP had any UIPA appeals involving a complaint about an agency's use of this provision.

Although the large number of duplicate requests made to the Department of Health has declined since 2010, there continue to be requesters who make duplicative requests to one agency or another. Although this is not a large-scale problem at any given time, it can be very frustrating for an agency finding itself obligated to respond repeatedly to a request for records it has already provided or has properly denied under the UIPA. Because OIP has not seen negative impact from the provision relieving that obligation, and has seen positive impact in relieving agency personnel from a frustrating obligation that presented an inefficient use of their time, OIP believes the provision's sunset date should be removed and the provision should be allowed to remain as part of the UIPA.

Impact on the public: As has been the case for the last several years, members of the public will not be able to require the same government agency to respond more than once a year to the same record request made by the same person, assuming the agency's response to the request was proper in the first place and would not change in response to the new request. Members of the public remain able to make any number of new non-duplicative record requests to the same agency.

Impact on the department and other agencies: Agencies will not have an obligation re-imposed on them to respond to a UIPA request that is the same as or substantially similar to one made by the same person within the last year, so long as the agency responded properly the first time and its response to the repeat request would remain unchanged.

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GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: All state and county agencies subject to the
UIPA.

EFFECTIVE DATE: June 30, 2014.